

Amendment
Serial No. 10/528,628

IN THE DRAWINGS

In response to the objection to the drawings, applicant submits, herewith, amended drawings for Figures 1 and 2 containing descriptive labels, annotated as Replacement Sheets.

REMARKS

Entry of this Amendment and reconsideration are respectfully requested in view of the amendments made to the claims and for the remarks made herein.

Claims 1-7 and 9-16 are pending in the application and stand rejected.

Claims 1, 4, 5, 9, 10 and 12 have been amended.

Claims 1, 4, 5, 9, 10 and 12 are independent claims.

The drawings are objected to for lacking descriptive legends.

Applicant respectfully disagrees with the objection of the drawings lacking descriptive legends as the drawings provide symbolic labels that are adequately described in the instant applicant. However, in order to advance the prosecution of this matter, applicant has elected to provide, herein, amendments to the Figures 1 and 2 that contain more descriptive labeling of the steps recited therein.

For the submission of amended drawings of Figures 1 and 2, applicant submits that the reason for the objection has been overcome and respectfully requests that the rejection be withdrawn.

Prior to commenting on the rejection of the claims, applicant has amended each of the independent claims to further recite the claim element "wherein said last random access point is correlated with an access point associated with one of said connections available to said user and said connection being determined based on an available bandwidth, said connection being determined based on an available bandwidth associated with a selected one of said terminals." No new matter has been added. Support for the amendment may be found on page 3, lines 11-14 and at least in Table 1.

Notwithstanding the amendment made to the independent claims, it will be shown that the claims, without amendment, are neither anticipated nor rendered obvious by the references cited as the claims include subject matter not disclosed by the cited references.

Claims 1-7 and 9 stand rejected under 35 USC 102(e) as being anticipated by Richard Anthony Leaning (WO 02 49343) for the reasons given in the International Search Report (ISR) for corresponding PCT application WO 2004/030310.

Applicant respectfully disagrees with and explicitly traverses the rejection of claims 1,-7 and 9.

Leaning teaches a system for delivering recorded audio or video material over a telecommunications link from a server to a terminal by dividing the material into a sequence of sub-files, each of which is independently requested by the terminal; the terminal controls the rate of delivery. Leaning discloses that provision may be made for switching between alternative sub-files sets representing alternative delivery modes of data rates. Leaning further discloses that the sub-file sets associated with the different rates are organized such that the frames in each sub-file fall on the same boundaries so that when a rate switch occurs the frame of the new rate begins at the point where the frame of the previous rate ends.

Hence, Leaning teaches a system that allows for transparent switching of rates by preconditioning the sub-files so that the data therein is physically aligned.

However, Leaning fails to provide any teaching regarding different connections that may be used to resume the data transmission. Leaning fails to disclose "user terminal includes one or more connections to the network" or "allow[ing] resumption of the interrupted streaming session from the last random access point with any connection available to said user," as is recited in the claims 1, 4, 5 and 9. In addition, Leaning fails to disclose that the rate selected is dependent upon the bandwidth available, as is recited in the claims.

Claims 1-7 and 9 stand rejected under 35 USC 102(b) as being anticipated by David A. Romrell (USPPA 2001/0002900) for the reasons given in the International Search Report (ISR) for corresponding PCT application WO 2004/030310.

Applicant respectfully disagrees with and explicitly traverses the rejection of claims 1,-7 and 9.

Romrell discloses a system for recovery from a communication disruption during transmission of a data stream for a source computer to a destination computer comprising determining a portion of the data stream that was successfully received by the destination computer and resuming the transmission from a point in the data stream immediately after the successfully received potion. With reference to para. 0052, which is referred to

in the Office Action, and Figure 3, Romrell discloses that a request for data content may be generated by a destination device coupled to a network device. The network device determines whether the request corresponds to a previously disrupted transmission and if so, the network device determines what portion of the requested data stream, if any, was successfully received by the destination device before the interruption. The network device may then set a transmission start point to a position corresponding to an offset into the requested data stream to the successfully received portion. If the request does not correspond to a disrupted prior transmission, the start point is set to the beginning of the data stream. (see para. 0052).

Hence, Romrell teaches a system that allows for the resumption of the same data stream from the last point that was successfully transmitted over a network.

However, Romrell fails to disclose that the "user terminal includes one or more connections to the network" or "allow[ing] resumption of the interrupted streaming session from the last random access point with any connection available to said user," as is recited in the claims 1, 4, 5 and 9. Romrell fails to provide any teaching regarding different connections or bandwidths that may be used to resume the data transmission.

Claims 1, 2, 5, and 9 stand rejected under 35 USC 102(b) as being anticipated by IBM (EP 0 673 159) for the reasons given in the International Search Report (ISR) for corresponding PCT application WO 2004/030310.

Applicant respectfully disagrees with and explicitly traverses the rejection of claims 1, 2, 5 and 9.

IBM (Dan) discloses a system that enables a client to invoke a resume function following a pause function, wherein the system uses a hierarchy of methods to handle the resume request. If another ongoing video stream is available such that the point at which the client is paused will be reached by the ongoing stream within a tolerable delay, the client is assigned to the ongoing stream. If no stream is available and the client request can not be served from a buffer, the system assigns the client to a reserve stream taken from a pool of reserved server capacity. If no reserved server capacity is available, the client is given priority for assignment to the next stream to become available.

Hence, IBM (Dan) teaches a system that allows for the resumption of a data stream from a point before an interruption using another data stream, if the current transmission location of the other data stream is before the point of interruption so that data can be sent to the user when this other data stream reaches the point of interruption.

However, Dan fails to provide any teaching regarding different connections associated with the one or more terminals that may be used to resume the data transmission. Dan fails to disclose the claim elements "user terminal includes one or more connections to the network" or "allow[ing] resumption of the interrupted streaming session from the last random access point with any connection available to said user," as is recited in the claims 1, 5 and 9.

A claim is anticipated only if each and every element recited therein is expressly or inherently described in a single prior art reference.

In this case, neither Leaning, Romrell nor IBM (Dan) can be said to anticipate the subject matter recited in the claims as each of the references fails to expressly or inherently describe one or more to the elements recited in the independent claims.

With regard to the remaining claims, these claims ultimately depend from the independent claims, and, thus, the remaining dependent claims are also allowable by virtue of their dependence from an allowable base claim, without arguing the merits of each claim individually.

Claims 1, 2, 4-6, 9, 10 and 12-16 stand rejected under 35 USC 103(a) as being unpatentable over Lee (USP no. 7,127,735) in view of Hamilton (USPPA 2003/139980).

Applicant respectfully disagrees with and explicitly traverses the reason for rejecting the claims.

Lee teaches a video system that allows for resumption of an interrupted video stream by storing information regarding the interruption on the user's terminal to enable the user to resume from the interruption from any video server hosting the video stream. See for example, col. 3, lines 26-45, which state "[a]ccording to the VOD system and method of the present invention, a user profile which contains characteristic information on respective users' viewing of the video programs is stored in a storage means provided

in a user terminal registered in the VOD system or a local storage such as a smart card inserted in the user terminal. (emphasis added). The user profile information is transferred to a video server which is connected to a user when the same user requests a VOD service for the same video program, such that the video server reads out the characteristic information on viewing of the video program from the user profile information. Accordingly, if a subscriber of the VOD system requests viewing of a [sic] interrupted video program to a different video server, the video server can accurately provide the subscriber with the video program from the interrupted position of the video program without increasing the video server load."

Hence, Lee fails to teach storing the information necessary to resume a video stream in the server.

Hamilton teaches a method and system for controlling delivery of content on-demand over a cable network. Hamilton is cited in the Office Action for teaching a data base for storing user identification data which indicates the users last position in the streamed session. (see page 5, lines 14-17, OA). The Office Action finds motivation for including a data base in the teaching of Lee "to help identify the user to continue streaming the content from the last position on any available network connection." (*id.*).

However, neither Lee nor Hamilton teach or suggest that recording a last access point or the use of different connections based on different terminals. In fact, Lee specifically discloses the use of the same terminal as the data for resuming the transmission is stored within the terminal.

In addition, contrary to the position stated in the Office Action, the combination of Lee and Hamilton fails to render obvious the invention claimed in the independent claims for at least failing to teach the terminal having one or more connections and that the resumption of the data stream with any connection available to the user.

In this case, a *prima facie* case of obviousness has not been made as each of the elements recited in the claims is not disclosed by the combination of Lee and Hamilton.

Each of the remaining claims depends from one of the independent claims, which has been shown to include subject matter not disclosed by the combination of Lee and Hamilton and, consequently, the remaining dependent claims are also not rendered

obvious by the cited references.

In addition, the combination of Lee and Hamilton would create a device that is contrary to the teaching of Lee as Lee explicitly teaches storing information necessary to resume the transmission in the terminal device, such that the next video server has access to this information. The use of a data base for the storing of similar information is redundant to the Lee disclosure as incorporating a data base to save this information would alter the teaching of Lee to save data on the terminals.

Hence, there is no motivation to combine the teachings of Hamilton with the teachings of Lee as the teachings of Hamilton would alter the principles of Lee.

The aforementioned claims are not rendered obvious by Lee and Hamilton because the combination of Lee and Hamilton fails to disclose all the elements recited in the claims and, even if could be said that Lee and Hamilton disclosed all the elements recited in the claims, there is no motivation to combine these references as suggested by the Office Action.

Accordingly, applicant submits that the rejection of the aforementioned claims has been overcome and respectfully requests that the rejection be withdrawn.

Claims 3, 7 and 11 stand rejected under 35 USC 103(a) as being unpatentable over Lee in view of Hamilton and further in view of Sitaraman(USP no. 2006/179154).

With regard to the aforementioned claims, these claims depend from one of the independent claims, which have been shown to include subject matter not disclosed by Lee and Hamilton. Sitaraman is cited for teaching the claim element "a server has access to several encoded versions of said content, and the version initially used when resuming a streaming session toward a user via a certain connection is the version whose encoding rate best matches the initial sending rate to be used for said connection."

However, even if Sitaraman can be said to teach the element cited, neither Lee nor Hamilton provide any teaching of multiple streams of different encoding rates that may be used for the connection established after resumption of the transmission.

Accordingly, applicant submits that the combination of the references cited fails to properly contain all the elements recited in the claims. Rather, these references have

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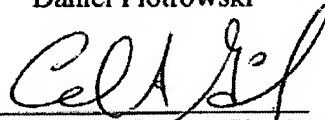
been put together based on the teachings provided in the disclosure of the instant application.

Thus, for at least this reason, applicant submits that rejection of the aforementioned claims has been overcome and respectfully requests that the rejection be withdrawn.

For the amendments made to the claims and for the remarks made herein, applicant submits that all the objections and rejections have been overcome and that the claims are in a condition for allowance. It respectfully requested that a Notice of Allowance be issued.

Should the Examiner believe that the disposition of any issues arising from this response may be best resolved by a telephone call, the Examiner is invited to contact applicant's representative at the telephone number listed below.

Respectfully submitted,
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